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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,820	07/23/2003	Jonathan Maynes	CEN0017-01	7804

7590 11/24/2006

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EXAMINER	
PADEN, CAROLYN A	

ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/625,820	MAYNES, JONATHAN	
	Examiner	Art Unit	
	Carolyn A. Paden	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Applicants' amendments to the claims are sufficient to overcome the rejection under 35 USC 102 over Losch and Pardum and the rejection of the claims under 35 USC 112, second paragraph.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Umeda as further evidenced by Merck Index.

Umeda discloses defatted soybean lecithin in Table 2, which has the phosphatidylcholine (PC) of the claims. Although the acetone soluble content is not mentioned, this value is a well-known property of lecithin, as evidenced by the Merck Index. Thus one of ordinary skill in the art would anticipate that the defatted lecithin of Table 2 would also have the acetone insoluble content of the claims due to the high content of lecithin phospholipids.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda as further evidenced by Merck Index alone or in view of Losch.

Umeda discloses defatted soybean lecithin in Table 2, which has the phosphatidylcholine (PC) of the claims. Although the acetone soluble content is not mentioned, this value is a well-known property of lecithin, as evidenced by the Merck Index. Thus one of ordinary skill in the art would anticipate that the defatted lecithin of Table 2 would also have the acetone insoluble content of the claims due to the high content of lecithin phospholipids. The claims appear to differ from Umeda in the recitation that the lecithin is in a granulated form. Losch is relied upon to show that phospholipids are easily formulated into a granulated state. It would have been obvious to formulate the phospholipid composition of Umeda into the granulated form of Losch in order to provide for a storage stable phospholipid composition.

Claims 6 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka in view of Umeda for reasons of record used in rejecting claim 6 in the last office action and as further evidenced by Merck.

Applicants' arguments are directed particular phospholipids composition of the claims, which Umeda, as further evidenced by Merck, discloses. Accordingly no additional arguments need to be addressed.

Claims 8-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pardums for reasons of record as further evidenced by Merck.

Pardums discloses phosphatide extraction with 90% ethanol.. In example 3, soy lecithin is combined with alcohol at 50C, cooled to 20 and stirred. After allowing the mixture to stand overnight, the layers of extract and residue were separated and analyzed. The claims appear to differ from Pardums in the recitation of treating the residue of alcohol extraction more than once. It is very well known in the art to utilize multiple extractions to enhance the purity of extracted ingredients. It would have been obvious at the time of applicants' invention to extract lecithin with alcohol more once in order to further purify the lecithin product. It is appreciated that the concentration of alcohol in the solvent is not the same as it is in Pardums

but no unobvious or unexpected result is seen from this particular ratio. It is also appreciated that a high shear mixer is not mentioned but no unobvious or unexpected results are seen from the selection of a particular type of mixer. Finally, it is appreciated that a centrifuge is not mentioned but a centrifuge would have been an obvious way to speed up the separation of the residue from the extract in Pardums.

The claims also appear to differ from Pardums in the extent of acetone insoluble fraction that is present in the sample. Merck index teaches that acetone insolubility in lecithin is a property of the product. Thus one of ordinary skill in the art would expect the acetone insoluble content of Pardums to go up with the purity of the lecithin.

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final

action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (571) 272-1398 or by dialing 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is

available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carolyn Paden

CAROLYN PADEN 1761
PRIMARY EXAMINER 11-21-06